IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.863 OF 2005
ALONG WITH
CRIMINAL APPLICATION NO.6044 OF 2005

Raju Prabhulal Rajbhor ...Appellant.

V/s

The State of Maharashtra
[Meghwadi Police Station] ...Respondent.

Dr. Yug Mohit Chaudhry for the appellant.

Mrs. P.H. Kantharia for the respondent.

CORAM: D.G. DESHPANDE &
V.M. KANADE, JJ.

DATE : 5th December, 2005

P.C.

1. This matter is on board for orders on bail application. The learned Counsel for the appellant states that he is not pressing this application because this is a matter where judgment of conviction is required to be set aside on the ground that out of 13 witnesses of the prosecution, four witnesses of the prosecution have not been permitted to be cross-examined and for two witnesses only one question was permitted.

2. The learned Counsel appearing on behalf of the appellant submitted that the accused was represented

by the lawyer appointed from the Legal Aid Panel. On number of dates, the advocate appointed did not appear. It appears that the Court, therefore, got frustrated by granting number of adjournments for accommodating the appointed advocate and, ultimately, it resulted in conviction of the appellant - accused. He states that the right of cross-examination is a substantive right and the accused cannot be denied this right. He also makes a statement that he will see that the responsible advocate will now represent the appellant - accused before the trial court. The learned APP also concedes that sufficient and proper opportunity was not given to the appellant - accused and the judgment reflects carelessness of the advocate appointed from Legal Aid Panel.

3. In view of this submission, judgment of conviction of the appellant - accused is set aside. The matter is remanded to the trial court. The learned advocate Shri Chaudhry states that a responsible and competent advocate will be engaged to represent the accused before the trial court. The trial court will give full opportunity to the advocate for the accused to cross-examine the witnesses. The advocate so appointed will also not seek unnecessary adjournments and give co-operation to the court in expeditious

disposal of the trial, say within three weeks from the date of the receipt of the writ from this Court.

4. It is necessary at this juncture that the trial court should take appropriate action against the advocates appointed from Legal Aid Panel who do not appear and are not diligent in their duties and that their names should be deleted from the list of Panel.

(D.G. DESHPANDE, J.)

(V.M. KANADE, J.)